

July 19, 2011 recurrence development letter. It was his opinion that appellant's condition had progressed to the point that he was no longer able to work in the capacity required of his position and that the medical record offered appropriate substantiation of his difficulties.

In a January 3, 2012 decision, OWCP denied appellant's reconsideration request. It found the request untimely and further found that appellant did not present clear evidence of error in the September 27, 2011 decision.

The Board has duly considered the matter and finds that OWCP's January 3, 2012 decision denying appellant's reconsideration request must be set aside.

OWCP may review an award for or against payment of compensation at any time on its own motion or upon application.² An employee (or representative) seeking reconsideration should send the request for reconsideration to the address as instructed by OWCP in the final decision. The request for reconsideration, including all supporting documents, must set forth arguments and contain evidence that either: (1) shows that OWCP erroneously applied or interpreted a specific point of law; (2) advances a relevant legal argument not previously considered by OWCP; or (3) constitutes relevant and pertinent new evidence not previously considered by OWCP.³

A request for reconsideration must be received by OWCP within one year of the date of OWCP's decision for which review is sought.⁴ A timely request for reconsideration may be granted if OWCP determines that the employee has presented evidence or argument that meets at least one of these standards. If reconsideration is granted, the case is reopened and the case is reviewed on its merits. Where the request is timely but fails to meet at least one of these standards, OWCP will deny the request for reconsideration without reopening the case for a review on the merits.⁵

As the statement of appeal rights attached to OWCP's September 27, 2011 decision advised, appellant had one calendar year, or until September 27, 2012, to deliver any reconsideration request to OWCP. OWCP received his request within a month. The Board therefore finds that his request was timely and subject to the standard of review in 20 C.F.R. § 10.606(b)(3). The Board will remand the case for an application of the proper standard of review.

² 5 U.S.C. § 8128(a).

³ 20 C.F.R. § 10.606.

⁴ *Id.* at § 10.607(a).

⁵ *Id.* at § 10.608.

IT IS HEREBY ORDERED THAT the January 3, 2012 decision of the Office of Workers' Compensation Programs is set aside and the case remanded for further action.

Issued: January 30, 2013
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board